

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed March 22, 2005. Claims 1-12 were pending in the Application. In the Office Action, Claims 1-12 were rejected. In order to expedite prosecution of this Application, Applicants amend Claims 8 and 11. Thus, Claims 1-12 remain pending in the Application. Applicants respectfully request reconsideration and favorable action in this case.

As an initial matter, Applicants thank the Examiner for the telephone conference of May 23, 2005, between Examiner Lemma and James L. Baudino, during which a preliminary amendment filed by Applicants on January 16, 2002, was discussed. Specifically, in the preliminary amendment, a claim numbering discrepancy was addressed with respect to now pending Claims 9-12 (originally filed as Claims 10-13). In doing so, reference numerals appear to have been inadvertently inserted into pending Claims 9-12. However, such reference numeral additions did not comply with claim amendment practice at that time as such reference numerals were not underlined indicating the addition/insertion of such text into the claims. Accordingly, based on the above-identified telephone conference, Claims 9-12 are presented without such reference numerals as such reference numerals are deemed not recited by Claims 9-12.

In the Office Action, the following actions were taken or matters were raised:

**DRAWING OBJECTION**

The Examiner objected to the drawings because of informalities. Specifically, the Examiner states that in Figure 2, reference numbers "80" and "81," which are recited as "Network based IPS" on the disclosure are designated as "Network IDS". Applicants have amended Figure 2 as indicated by the Examiner to replace "IDS" with "IPS" corresponding to reference numerals "80" and "81." Further, Applicants have amended the text associated with reference numeral 85 based on a similar discrepancy (e.g., replacing "IDS" with "IPS"). A replacement sheet of the drawing containing amended Figure 2 is attached herewith in Appendix A. Applicants respectfully request that this objection be withdrawn.

**CLAIM OBJECTIONS**

The Examiner objected to Claim 8 for informalities. Specifically, Claim 8 recites “binding the network filter service provider to a protocol driver a the network stack of the node” (emphasis added). Accordingly, Applicants have amended Claim 8 to replace “a the” indicated above with “of the” such that Claim 8 recites “binding the network filter service provider to a protocol driver of the network stack of the node.” Therefore, Applicants respectfully request that this rejection now be withdrawn.

**SECTION 102 REJECTIONS**

Claims 8-12 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,851,061 issued to Holland III et al. (hereinafter “*Holland*”). Applicants respectfully traverse this rejection.

Of the rejected claims, Claims 8 and 11 are independent. Applicants respectfully submit that *Holland* does not disclose or even suggest each and every limitation of amended independent Claims 8 and 11. For example, Applicants respectfully submit that *Holland* does not disclose or even suggest a “network filter service provider implemented as an intermediate driver of the network stack” as recited by amended independent Claims 8 and 11.

*Holland* appears to disclose a packet filter 37 that collects all network traffic transiting through the network interface controller (NIC) 31 of *Holland* (also referred to by the Examiner with respect to the rejection of Claims 1-7 under 35 U.S.C. § 103 at page 8 of the Office Action) (*Holland*, column 4, lines 52-53). *Holland* also appears to disclose that the NIC 31 of *Holland* is placed in standard mode such that NIC 31 copies out all network traffic destined for the media access control (MAC) address (*Holland*, column 4, lines 53-55). *Holland* further recites:

The packet filter 37 captures and filters the data frames. A stream and packet processing module 38 demultiplexes the filtered data frames into individual frames, datagrams, and packets in accordance with the network protocols supported by the IP stack 33. In effect, the stream and packet processing

module duplicates the functionality of the IP stack 33 by reassembling raw data frames into properly formatted, higher protocol data packets. These data packets are collected by a network collector 39 for use by the analysis module 36.

(*Holland*, column 4, lines 57-67, figure 2)(emphasis added). The Examiner also states that the “protocol driver is inherently included in the IP stack” of *Holland* (Office Action, page 4). Thus, the filter 37 of *Holland* does not appear to be, or function as, an intermediate driver of a network stack where the network stack comprises a media access control driver and a protocol driver. To the contrary, the packet filter 37 of *Holland* does not appear to transfer any data to, or receive any data from, the IP stack 33 of *Holland* referred to by the Examiner (see, also, figure 2 of *Holland*). Thus, Applicants respectfully submit that *Holland* does not disclose or even suggest a “network filter service provider implemented as an intermediate driver of the network stack” as recited by amended independent Claims 8 and 11. Accordingly, for at least this reason, Applicants submit that *Holland* does not anticipate amended independent Claims 8 and 11.

Claims 9, 10 and 12 that depend respectively from independent Claims 8 and 11 are also not anticipated by *Holland* at least because they incorporate the limitations of respective Claims 8 and 11 and also additional elements that further distinguish *Holland*. Therefore, Applicants respectfully request that the rejection of Claims 8 and 11, and Claims 9, 10 and 12 that depend respectively therefrom, be withdrawn.

### **SECTION 103 REJECTIONS**

Claims 1-7 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Holland* in view of U.S. Patent No. 6,826,697 issued to B. Moran (hereinafter “*Moran*”). Applicants respectfully traverse this rejection.

Of the rejected claims, Claim 1 is independent. Independent Claim 1 recites, at least in part, “an operating system comprising a network stack comprising a protocol driver, a media access control driver and an instance of the intrusion detection system implemented as an intermediate driver and bound to the protocol driver and the media access control driver”

(emphasis added). In the Office action, and as discussed above, the Examiner appears to consider the packet filter 37 of *Holland* as an “intermediate driver” of a network stack comprising a protocol driver and a media access control driver where “the MAC driver . . . is inherently included in the NIC and . . . the protocol driver . . . is inherently included in the IP stack” (Office Action, page 8). As discussed above, Applicants respectfully submit that the packet filter 37 of *Holland* is not an “intermediate driver” of a network stack comprising a protocol driver and a media access control driver. Further, *Moran* does not appear to remedy at least this deficiency of *Holland*. Accordingly, Applicants respectfully submit that Claim 1, and Claims 2-7 that depend therefrom, are patentable over the cited references.

**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending claims.

No fee is believed due with this Response. If, however, Applicant has overlooked the need for any fee due with this Response, the Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this Response to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,

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Date: June 22, 2005

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